

Victim Impact Statements

Prepared by the Canadian Resource Centre for Victims of Crime

Introduction

In the past, the victim was an overlooked entity of the justice process. Over the years, victims' advocates have fought diligently to improve the treatment that victims are afforded at the hands of the criminal justice system. The victims' movement has had many successes, perhaps the most significant being the Victim Impact Statement.

What is a victim impact statement?

A victim impact statement is a written account of the personal harm suffered by a victim of crime. The statement may include a description of the physical, financial and emotional effects of the crime.

The victim impact statement is intended to give crime victims a voice in the criminal justice process. It allows them to participate in the sentencing of an offender by explaining to the court, and the offender, how the crime has affected them.

Who can prepare a victim impact statement?

A victim, as defined by the *Criminal Code*, is someone to whom harm has been done or who has suffered physical or emotional loss as a result of an offence.

The statement may be prepared by the victim, by someone on behalf of the victim, by the survivors of deceased victims, by the parent or guardian of a child victim, by a spouse, or by a dependant or close relative of a victim who is unable to make the statement.

Why write a victim impact statement?

The preparation and submission of an impact statement is voluntary. No victim is required to write an impact statement. Should you choose to do so, the purpose of an impact statement is to inform the court of the impact of the crime on your life.

Although the decision to write an impact statement is voluntary, consideration of it by a judge is mandatory. Where a victim impact statement has been prepared, IT MUST BE TAKEN INTO CONSIDERATION BY THE SENTENCING JUDGE.

When will a victim impact statement be used?

An impact statement will not be used unless or until a criminal conviction has been rendered. It can also be used in the case of a plea bargain. Victims should discuss when to submit their statement with the Crown or the victim services provider.

The victim should note that the victim impact statement will be shared with the defence and therefore the offender will see it. Once an impact statement has been entered into court, it becomes public record. The victim should be aware that the defence may question them about their statement, but that this is a rare occurrence.

What if I was not aware of my right to make an impact statement?

Judges are required by law to ask a Crown, before imposing a sentence, whether the victim

has been informed of the opportunity to prepare a victim impact statement. Current law also provides for adjournments to give the victim time to prepare a statement or other evidence to the court about the impact of the crime, but this is the individual judge's decision.

Where do I get information about impact statements?

The provinces and territories distribute impact statement information through various agencies. In some provinces, the police give victims a victim impact statement form to complete. Other provinces refer the victim to a victim services agency that will provide them with information about the impact statement program in their area. In other areas, the Crown Attorney is responsible for providing victims with information about impact statements.

How do I write a victim impact statement?

Your statement should detail the effect of the crime on you and your family. It should not reiterate the facts of the case because this may give the defence an opportunity to challenge the facts as they have been presented. Do not recommend a sentence for the offender and avoid repeating any rumours or allegations about the offender.

The impact statement may be divided into three categories: financial, physical and emotional impact.

Financially, you should include all of the actual costs involved such as medical, funeral expenses, costs for therapy and loss of income. It is also appropriate to estimate future expenses.

Physically, account for all the injuries you or your family has suffered. Make the court aware of whether these injuries are temporary or permanent. It is appropriate to note any future medical problems that may arise as a result of the crime.

Emotionally, you should account for the distress that the crime has caused your life. Note depression, mood swings, or nightmares.

Criminal Code

The right of a victim to complete a Victim Impact Statement is legislated under Section 722 of the *Criminal Code of Canada*:

722. (1) For the purpose of determining the sentence to be imposed on an offender or whether the offender should be discharged pursuant to section 730 in respect of any offence, the court shall consider any statement that may have been prepared in accordance with subsection (2) of a victim of the offence describing the harm done to, or loss suffered by, the victim arising from the commission of the offence.

(2) A statement referred to in subsection (1) must be prepared in writing in the form and in accordance with the procedures established by a program designated for that purpose by the lieutenant governor in council of the province in which the court is exercising its jurisdiction; and filed with the court.

How does my statement get presented to the court?

Once your victim impact statement is filed, both the defence counsel and the sentencing judge receive copies of it. It is to be considered by the judge before imposing a sentence. If desired, victims may choose to read their impact statements out loud at the time of sentencing. It is advisable to discuss this with the Crown.

OTHER PROCEEDINGS

Section 745.6 Hearings

Section 745.6 hearings are held to determine whether an offender sentenced to life in prison with no parole for 15 years may have his or her parole eligibility period reduced. Any information provided by the victim's survivors must be considered at such hearings. Victims may choose to present either an oral or written victim impact statements.

A verdict of "Not Criminally Responsible"

Written victim impact statements are to be considered by the court or Review Board in cases where the verdict of "not criminally responsible" on account of mental disorder has been rendered.

Parole Hearings

In order to give parole board members insight into the continuing impact of the crime, it is important for victims to submit their impact statements to the paroling authorities. By doing so, victims can inform the board about any concerns they have for their safety or the safety of the community.

Parole board members carefully examine these statements before releasing an offender into the community. Impact statements can be updated at each step of the offender's release into the community, i.e., unescorted temporary absences, day parole and full parole, etc. If the board does grant parole, a victim's information allows the board to place restrictions on the offender, i.e., to have no contact with the victim, not to enter a specified geographical area, etc.

As of July 1, 2001, victims of crime may now choose to present their statement orally, by reading it aloud during a National Parole Board (NPB) hearing. Until now, victims could submit written statements and attend Board hearings as observers, but they were not allowed to speak.

Victims may also choose to make an audio or videotape (VHS) of their written statement. The audio or videotape must be limited to a reading by the victim of the written statement. The written statement must accompany the audio or videotape and the NPB is unable to return audio or videotapes. Victims who may be unable to attend the hearing, or for whatever reason choose not to attend, have this option available to them. It is also available to victims who are attending the hearing but may not be comfortable in reading their statement.

To present a statement a victim must submit a written request to the office of the National Parole Board in the region where the hearing will take place. There is a form that victims

must complete in order to present a statement. This form is available by contacting one of the NPB regional offices (see below).

The victim statement may be presented either at the beginning of the hearing, immediately following the formal opening, or at the end of the hearing following the Board member's interview with the offender or, if the offender has an assistant, following the concluding remarks by the assistant.

The statement must be prepared in advance, in writing. It must be submitted to the Board in sufficient time to allow a copy of the statement to be provided to the offender, in the official language designated by the offender, at least 15 days before the day set for the hearing. Normally, a victim must be age eighteen or over to present a statement in person at a hearing. This is due to the nature of the subject matter commonly discussed at hearings. Exceptions will be considered on a case by case basis.

National Office
National Parole Board
410 Laurier Avenue West
Ottawa, Ontario K1A 0R1
Ph. (613) 954-7474
Fax. (613) 954-4380

Atlantic Region
National Parole Board
1045 Main Street, 1st floor, Unit 101
Moncton, NB E1C 1H1
Ph. (506) 851-6345
Fax. (506) 851-6926
Victims Information Line
1-800-265-8744/8644
1-888-396-9188

Pacific Region
National Parole Board
32315 South Fraser Way, Suite 305
Abbotsford, BC V2T 1W6
Ph. (604) 870-2468
Fax. (604) 870-2498
Victims Information Line
1-888-999-8828

Ontario Region
National Parole Board
516 O'Connor Drive
Kingston ON K7P 1N3
Ph. (613) 634-3857
Fax. (613) 634-3861

Victims Information Line
1-800-518-8817

Quebec Region
National Parole Board
Guy-Favreau Complex
200 René-Lévesque Blvd West
10th floor, Suite 1001
West Tower
Montreal, QC H2Z 1X4
Ph. (514) 283-4584
Fax. (514) 283-5484
Victims Information Line
1-877-333-4473

Prairies Region
National Parole Board
101 - 22nd Street East, 6th floor
Saskatoon, SK S7K 0E1
Ph. (306) 975-4228
Fax. (306) 975-5892
Victims Information Line
1-888-616-5277

Edmonton Office (Alberta, North West Territories)
Scotia Place, Scotia 2, Suite 401
10060 Jasper Ave.
Edmonton, Alberta
T5J 3R8
Tel: (780) 495-3404
Victim Info Line: 1-800-597-4397
Fax: (780) 495-4403

PLEASE NOTE: As of December 7, 2001, the National Parole Board has a new toll-free victim information line that can be dialed from anywhere in Canada and the United States and directed to the NPB regional office, which serves that area code.

This new toll-free number is 1-866-789-INFO (4636).

This service will not replace the existing toll-free numbers in the regions. Rather it will augment that service. The existing regional numbers allow victims who have already registered easy access to NPB regional offices for on-going contact. These numbers have been widely publicized in brochures and on the NPB web site. The new number, however, will permit new victims with a single and seamless way to make initial contact with NPB.

Disclaimer: The information provided on this web site is intended for educational purposes only. Before implementing any intervention, please contact your local police service or Crown Attorney's Office for further and more specific information.